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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/622,674	10/02/2000	John Shuker	43191-220477	2741
23370	7590	01/21/2011	EXAMINER	
JOHN S. PRATT, ESQ KILPATRICK TOWNSEND & STOCKTON LLP 1100 PEACHTREE STREET SUITE 2800 ATLANTA, GA 30309			SULLIVAN, MATTHEW J	
ART UNIT		PAPER NUMBER		3677
NOTIFICATION DATE		DELIVERY MODE		01/21/2011 ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/622,674	SHUKER, JOHN	
	<b>Examiner</b>	<b>Art Unit</b>	
	MATTHEW SULLIVAN	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 12 November 2010.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-7 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-7 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>11/12/10</u> .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

Claim 2 objected to because of the following informalities: in line 3 the limitation "inbetween" should be "in between". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 1 recites the limitation "the check means" in 10. There is insufficient antecedent basis for this limitation in the claim. Claims 2-7 are rejected on the same grounds.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parizel, EPO Publication 0,443,919 (8/28/91) in view of Lowen, U.S. Patent Application Publication 2007/0050940 (3/8/07).**

Parizel clearly teaches a hinge assembly including a first hinge leaf (1a) hingedly connected to a second hinge leaf (2) by a hinge pin (6), the hinge pin being rotatably mounted in one hinge leaf (1a) and non-rotatably mounted in the other hinge leaf (2) and a check mechanism (see fig 15, elements 6a., 11, 12, 30) operably connected to the hinge pin and the one hinge leaf to releasably hold the first and second hinge leaves at at least one angular position about the hinge axis, the check mechanism including a check body (6a) rotatably located within an annular cam track (fig. 15, elements 12), the check body including two or more check members (11) which are equally spaced from one another circumferentially about the hinge axis, the check means ("check body", see 112 rejection above) being driven along the annular cam track by relative rotation between the first and second hinge leaves, the cam track including at desired locations therealong one or more check formations (13) which co-operate with the check means ("check body", see 112 rejection above) to releasably retain the first and second hinge leaves at a desired angular position relative to one another, the cam track being formed

on a reaction member (see elements 30, see interior surface of element 1) which is non-rotatably located in a housing (1) fixedly secured to the one hinge leaf, the reaction member being in the form of an annulus of metal (see elements 30 and interior surface of element 1). Parizel does not teach the check members being resiliently biased in a radial outward direction relative to the hinge axis to engage and run along the cam track.

Lowen does teach a check mechanism with check members (7) which are resiliently biased in a radial outward direction relative to a hinge axis (see element 5) to engage and run along a cam track (24, 26).

At the time of the invention it would have been obvious to one of ordinary skill in the art barring any unforeseen result to provide Parizel with the features of Lowen such that the resilient members of the reaction member on Parizel (elements 30) could be replaced with resilient mechanisms of Lowen such that the check members would be biased in a radial outward direction because such an arrangement would allow for a much simpler geometry on the interior surface of the housing (1) of Prizel (which comprises the reaction member) and this would be far simpler and cheaper to manufacture, **[Claim 1]**.

Regarding **Claim 2**, Parizel teaches the housing (see fig. 16, 1) having a bottom wall (see element 8) and an open top closed by an end cap (7) with the check body being located in between the bottom wall and end cap and the hinge pin being rotatably supported in the bottom wall and end cap. Examiner notes that element 8 is interpreted

to constitute a wall because it does not set forth a through hole as the end cap (element 7) does.

Regarding **Claim 3**, Parizel does not teach the check formations being in the form of recesses into which the check members are received, but does teach the check members being bosses (13) received in recesses of the check members (see recesses between bosses 11). At the time of the invention it would have been obvious to one of ordinary skill in the art barring any unforeseen result to reverse the bosses and recesses of Parizel because a reversal of parts is generally considered to be obvious to one of ordinary skill in the art barring any unforeseen result, *In re Gazda*.

Regarding **Claim 4**, in light of the rejection above of **Claim 3**, the instant combination of Parizel-Lowen teaches the recesses arranged in one or more groups corresponding to respective check positions (see fig. 15), the recesses in each group corresponding in number and circumferential spacing to the number and circumferential spacing of the check members (11) such that at a desired check position all check members are located in a corresponding recess of the group (see fig. 15).

Regarding **Claim 7**, Lowen further teaches the hinge leafs being axially withdrawable (see elements 20, 12) from the hinge pin (5) so as to define a lift-off hinge assembly.

**Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parizel-Lowen as applied to claim 1 above, and further in view of Riblett, U.S. Patent 5,412,842 (5/9/95).**

All the aspects of the instant invention are disclosed above but for the check member being in the form of balls.

Riblett teaches a check hinge wherein the check members are balls (74) at the time of the invention it would have been obvious to one of ordinary skill in the art barring any unforeseen result to provide the Parizel-Lowen combination with the check member features of Riblett because balls would have less friction than rollers (as taught by Lowen) during rotation, but would still allow for effective checking action, **[Claim 5]**.

Regarding **Claim 6**, Lowen teaches each check member (7) located in a radially extending bore (25) formed in a check body (8) in which is housed a resilient means (9) for biasing the check members outwardly. Riblett teaches the balls each located in radially extending bores (see fig. 5). The instant combination of Parizel-Lowen-Riblett would clearly satisfy the limitations as claimed.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW SULLIVAN whose telephone number is (571)270-5218. The examiner can normally be reached on Mon-Thurs, 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor D. Batson can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David J. Bagnell/  
Supervisory Patent Examiner, Art Unit 3672

/M. S./  
Examiner, Art Unit 3677